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SUBJECT: DRL DAS KRILLA VISIT TO VIETNAM

¶1. (SBU) Summary: DRL Deputy Assistant Secretary Jeffrey Krilla and Mark Mittelhauser, Deputy Director of the Office of International Labor and Corporate Social Responsibility, visited Ho Chi Minh City and Hanoi May 20-23. This cable provides a current overview of the labor situation in Vietnam and key institutions. The DRL visitors met key officials in government and in the labor movement to discuss current developments, strikes, corporate social responsibility and assistance needs. They also heard about the challenges Vietnam's labor institutions and businesses face as Vietnam integrates into the global economy. The many actors involved in labor here understand the issues, and are serious about working with each other to address problems. Still, while experts acknowledged some progress to date, there remain questions about the pace. Freedom of association continues to be sensitive. End Summary.

¶2. (U) State Department Democracy, Human Rights and Labor (DRL) Deputy Assistant Secretary Jeffrey Krilla and Mark Mittelhauser, Deputy Director of the Office of International Labor and Corporate Social Responsibility, visited Ho Chi Minh City May 20-21 and Hanoi May 22-23 to meet with various government officials and labor representatives to discuss labor issues. They met or visited:

* Ministry of Labor, Invalids and Social Affairs (MOLISA): Vice Minister Nguyen Thanh Hoa; National Labor Relations Research Board Director Nguyen Manh Cuong and Legal Department Director Dinh Van Son.

* International Labor Organization (ILO): Country Director Rose Marie Greve and Technical Advisor Jan Sunoo.

* Vietnam Chamber of Commerce and Industry (VCCI): First Vice Executive President Hoang Van Dzong.

* Vietnam General Confederation of Labor (VGCL): Vice President Nguyen Hoa Binh and Deputy Director of the International Department Chau Nhat Binh.

* Committee for Social Affairs, National Assembly: Committee Vice Chairman Dang Nhu Loi.

* Ministry of Foreign Affairs (MFA): Deputy Director General Duong Chi Dzong.

* Ho Chi Minh City Department of Labor, Invalids and Social Affairs

* Ho Chi Minh City Vietnam General Confederation of Labor (VGCL)

* Two factories in Ho Chi Minh City: Freetrend Limited and Sadeco Furniture

¶I. General Overview of Labor Situation

13. (SBU) The labor sector in Vietnam is undergoing a period of deep and systemic change. In the wake of a wave of labor unrest in 2006 and continuing unrest thereafter, the Government of Vietnam (GVN) passed a new amendment to the Labor Code on strikes aimed at streamlining the procedures by which strikes can occur. The strikes are symptomatic of increasing worker discontent due to poor conditions and wage pressures as well as a systemic lack of capacity within the industrial relations apparatus to manage labor relations.

Vietnam has a single overarching labor union, with many affiliated subordinate unions, and the capacity of these bodies to negotiate for workers is weak. This is primarily the result of the fact that Vietnam's labor union, the Vietnam General Confederation of Labor (VGCL), is funded by the state and is therefore not directly accountable to workers. Technically speaking, freedom of association does not exist in Vietnam because all unions have to be affiliated with VGCL.

14. (SBU) An important part of the U.S.-Vietnam labor relationship takes place under the aegis of the 2006 U.S.-Vietnam Letter of Understanding, a follow-on to an earlier Memorandum of Understanding that concluded in 2005 and under which the U.S. Department of Labor (DOL) implemented six labor-related projects. There are no funds to support this LOU and no attached projects. Still, the annual Labor Dialogue has continued, and both parties will be meeting in Hanoi this year for the meeting, tentatively scheduled for September 24.

Key Institutions

15. (SBU) The Ministry of Labor, Invalids, and Social Affairs (MOLISA) is central to Vietnam's progress on legal reform, progress with labor conditions, government initiatives to improve worker-enterprise relations and ratification of ILO core conventions. MOLISA also has the new National Industrial Relations

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Research Board. The National Industrial Relations Research Board will be engaged in a pilot project to develop collective bargaining agreements in several key provinces in southern Vietnam. It may also have a task force to negotiate in industrial disputes and aims to develop other initiatives to develop a more modern labor system generally.

16. (SBU) The National Assembly's Social Affairs Committee is responsible for drafting laws and oversight for labor and many other social issues, e.g., health care, the socially disadvantaged, the elderly, and the homeless. The Social Affairs Committee was responsible for drafting Chapter 14 of the Labor Code on strikes, the new export labor law, and will be in charge of the redrafting of the Labor Code. The Chapter 14 amendment was controversial and vigorously opposed by VGCL.

17. (SBU) The Vietnam Chamber of Commerce and Industry (VCCI) is a national organization that represents the business community, employers and business associations in all economic sectors in Vietnam. VCCI is an independent, non-governmental, non-profit organization having the status of a legal entity and operating with financial autonomy. The function of VCCI is to represent the Vietnamese business community for the promotion and protection of the lawful, legitimate interests of the business community and employers in Vietnam in domestic and international relations. Recently, VCCI has been working with the Vietnam General Confederation of Labor (VGCL) to improve understanding of the labor law nationwide in order to help promote sound industrial relations.

18. (SBU) The Communist Party of Vietnam controls the single trade union, VGCL, an umbrella organization that approves and manages a range of subsidiary labor unions organized according to location and industry. According to December 2005 data, the VGCL claimed 5.4 million members of the approximately 11.1 million wage earners in Vietnam. There is, however, a large disparity in terms of unionization rates in different economic sectors. Observers have harshly criticized VGCL for its failure to represent workers adequately. In many firms, the union representative is actually appointed from the firm's human resources office and is not active.

In some cases in 2006, the union representative did not even know about an erupting labor dispute until workers were already outside striking.

¶9. (SBU) VGCL has an influence on many key labor decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. VGCL vigorously opposed the National Assembly's insertion of the provision in the strikes law allowing un-unionized workers to represent themselves.

¶10. (SBU) The International Labor Organization (ILO) is engaged in a range of projects to assist with Vietnam's development of a labor sector more in keeping with an industrialized market economy. The most high profile of these is the second phase of the ILO/Vietnam Industrial Relations Project. This project seeks to improve working conditions by boosting collective bargaining capacity and improving worker-employer cooperation. The U.S. Department of Labor (USDOL) funded the project from September 2002 through mid-2006 (one of the six DOL projects in the U.S.-Vietnam MOU). Thereafter, the Norwegian Government took over support for the project. The project set up seven government offices that serve as one-stop industrial relations resource centers. The project also works to build industrial relations skills among workers and managers in 70 target enterprises. ILO is also providing, through this project, technical assistance with Vietnam's efforts to re-draft completely its labor law. ILO is also considering a new project, based on the Better Factories Corporate Social Responsibility project in Cambodia, for Vietnam. The IFC is a donor and the ILO is looking for further funding.

II. DRL Visit: Recent and Upcoming Developments

¶11. (SBU) National Industrial Relations Committee: In a brief courtesy call, MOLISA Vice Minister Hoa cited the Prime Minister's recent approval of the Committee, which MOLISA will chair. MOLISA explained the genesis of the Committee in an ILO industrial relations project first funded by USDOL and now receiving Norwegian support. MOLISA views the Committee as further promoting collective bargaining and strengthening industrial relations in a tripartite framework of government, workers, and employers. At all of the calls in Hanoi and Ho Chi Minh City, this development came up as a means of addressing several current nagging issues in the labor sector: strikes, local-level dialogue, training. DOLISA (the "D" stands for Department) representatives in Ho Chi Minh City further stressed coordination between employers, the VGCL, and workers was critical to defuse labor tensions early.

¶12. (SBU) U.S.-Vietnam Labor Dialogue: MOLISA and the Ministry of

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Foreign Affairs (MFA) officials confirmed the September Labor Dialogue and are preparing for it. They indicated they will likely provide detailed updates on new labor-related legislation and implementing decrees since the previous dialogue. Without elaborating, MOLISA also indicated they will want to discuss opportunities for temporary Vietnamese workers in the United States.

Strikes, Local-Level Unions

¶13. (SBU) The DRL meetings at VCCI, VGCL, and the Social Affairs Committee all touched on strikes. VCCI's Dzung, asserting that 90 percent of strikes in Vietnam are illegal, said Vietnam's integration into the global economy underscored the importance of institutions such as the National Industrial Relations Committee.

¶14. (SBU) VGCL blamed both employers and unions for the recent wave of strikes. VGCL's Binh said employers often do not follow the law or fail to fulfill their obligations. For example, Binh said employers often fail to sign contracts with workers and fail to pay social insurance, and they abuse overtime rules. Binh admitted, however, that trade union leadership at the local and factory level is weak. Besides more training, he sees a need for collective bargaining and an organized, local-level dialogue between workers

and business as means of countering strikes.

¶15. (SBU) Loi of the National Assembly Social Affairs Committee also faulted local-level union leaders for strike activity, saying they were "incapable of leading a strike. No one wants to be a trade union officer; they don't get paid and they are not trained." Finally, Loi said that many provinces, in their rush to attract and retain FDI, simply ignore the application of labor laws.

¶16. (SBU) ILO commented that the trade unions are weak and do not know how to empower their members. VGCL is the political link to the ruling Communist Party. Therefore, even if VGCL is incapable, no one dares ask for organizational change. In the ILO's view, the best way to improve trade union capacity is for the workers themselves requiring their representatives to play a more active role. As such, the ILO is trying to develop model labor relations projects at the local level to create a demand among other workers for good representation. ILO commented that local unions need to build their capacity or face becoming increasingly irrelevant in the face of wildcat strikes.

Corporate Social Responsibility

¶17. (SBU) Corporate social responsibility (CSR) is clearly an evolving topic for Vietnam. MOLISA explained that the term in the Vietnamese language more or less translates as "charity." With increasing foreign investment and significant output from local factories going to overseas markets, however, there is a parallel awareness that corporate social responsibility involves compliance with corporate codes of conduct and monitoring of supply chains. Thus, while older domestic companies are more likely to undertake a range of charitable acts, a few newer firms engage in actions that might have a more enduring impact on the well-being of the workforce and the broader community.

¶18. (SBU) DRL's official calls indicated little effort on behalf of labor officials to promote corporate social responsibility. Ho Chi Minh City DOLISA officials commented that CSR programs were only one way businesses can work to address employee concerns. VCCI noted that 96 per cent of enterprises in Vietnam are small and medium sized enterprises (SMEs) and rarely have the means and will to put in place comprehensive CSR programs. Nevertheless, VCCI formally recognizes exemplary employers with an award each year in October. Foreign firms, particularly in Ho Chi Minh City, are often the only enterprises to initiate comprehensive CSR policies for their workers. ILO indicated that local CSR auditors in Vietnam typically do a good job of identifying compliance problems and insisting that companies remedy shortcomings on labor law or code implementation.

Discussion of Assistance Needs

¶19. (SBU) MOLISA echoed a theme post has heard in other dialogues with the government: Vietnam's WTO accession in January 2007 represents new opportunities but also new challenges. Helping Vietnam confront these new challenges in terms of labor law and regulations is an opportunity for technical assistance. MOLISA also predicted the number of enterprises would quadruple by 2010-2015.

¶20. (SBU) Turning to specifics, MOLISA indicated assistance would be welcome in helping establish an unemployment insurance fund (required to be set up by 2009) and an occupational safety and

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health fund. They also pointed for the need for greater awareness among employers and unions regarding the law and their respective roles. In a lunch hosted by the U.S. Chamber of Commerce in Ho Chi Minh City, Amanda Tucker, outgoing country director for Nike, commented that more training for labor inspectors could assist in the creation of a comprehensive labor condition monitoring program, thus relieving the "audit fatigue" that several FDI factories suffer from.

¶21. (SBU) Building on an initial comment that VGCL's experience in a market economy was very limited, Binh said VGCL needed training in

negotiating techniques. VGCL also wants to learn more about industrial relations as practiced in other countries in the region. Binh did acknowledge the positive results to date from the ILO industrial relations project, and several contacts indicated that additional projects to promote greater harmony in industrial relations and more effective mediation would be well-received. In fact, the DRL team heard good words for the ILO project at nearly every call.

¶22. (U) DRL cleared this cable.

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